

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL NO. 03-12560-RGS

DAVID DIETZEL

v.

SPRINGFIELD TERMINAL RAILWAY COMPANY and
GUILFORD RAIL SYSTEMS

ORDERS ON MOTIONS TO DISMISS

March 18, 2004

STEARNS, D.J.

On February 27, 2004, defendants Springfield Terminal Railway Company and Guilford Rail Systems (Guilford), moved pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss plaintiff's claims under the Safety Appliance Act, 29 U.S.C. § 1 et seq., and the locomotive Boiler Act, 49 U.S.C. § 20701 et seq. Defendants argue that the injury alleged in the Complaint is not covered by either Act. In the absence of an opposition, the motion to dismiss (docket #6) is ALLOWED.

In a second motion to dismiss (docket #7), Guilford in essence argues that it is improperly named as a defendant, as it neither owns nor operates the property specified in the Complaint as the situs of the accident. Nor, claims Guilford, is it the employer of the plaintiff. The court will DENY this motion without prejudice in response to plaintiff's request for discovery limited to the issue of Guilford's status. The court will grant plaintiff sixty (60) days to conduct such discovery and to supplement his opposition to Guilford's motion.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE